

香港醫務委員會
The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr YUE Vincent Wing Shun (余榮信醫生) (Reg. No.: M06173)

Date of hearing: 6 March 2018 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph SBS (Chairman)
Dr LAU Chor-chiu, GMSM, MH, JP
Dr HUNG See-fong BBS
Dr LEUNG Chi-chiu
Mr HUNG Hin-ching, Joseph
Dr LI Mun-pik, Teresa
Prof. CHAN Tak-cheung, Anthony

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant : Dr David KAN of Messrs.
Howse Williams Bowers

Government Counsel representing the Secretary : Ms Carmen SIU

The Defendant is not present.

1. The charge against the Defendant, Dr YUE Vincent Wing Shun, is :

“That on or about 30 January 2014, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] (“the Patient”) in that he prescribed Europain (which contained Paracetamol) to the Patient when he knew or ought to have known that the Patient was allergic to Paracetamol.

In relation to the facts alleged, he has been guilty of misconduct in a professional respect.”

Facts of the case

2. The Defendant was at all material times a registered medical practitioner. His name has been included in the General Register from 29 July 1986 to present and his name has never been included in the Specialist Register.

3. In the morning of 30 January 2014, the Patient, who was then 74 years old, consulted the Defendant at his clinic for upper respiratory tract infection. During the consultation, the Defendant prescribed various drugs including Europain 500 mg to the Patient.

4. Europain contains Paracetamol and it should not be prescribed to a patient who is allergic to Paracetamol.
5. There is no dispute that the Patient had consulted the Defendant on and off since 1995. The Defendant became aware in 2006 that the Patient was allergic to Paracetamol. According to the Defendant, he then documented in red “allergic to Panadol” on the front page of the Patient’s consultation card and “Sensitive to Panadol” on each of the subsequent consultation cards for the Patient.
6. The Patient developed generalized rash and shortness of breath after taking one tablet of Europain prescribed by the Defendant and had to be admitted to the Accident & Emergency Department of the Prince of Wales Hospital (“PWH”) later in the afternoon of 30 January 2014.
7. According to the medical records obtained from PWH, the Patient was hospitalized until 1 February 2014. During his stay in PWH, the Patient’s allergic reactions to Paracetamol were treated with medications.
8. The Patient’s son subsequently lodged this complaint against the Defendant with the Medical Council.

Burden and Standard of Proof

9. We bear in mind that the burden of proof is always on the Legal Officer and the Defendant does not have to prove his innocence. We also bear in mind that the standard of proof for disciplinary proceedings is the preponderance of probability. However, the more serious the act or omission alleged, the more inherently improbable must it be regarded. Therefore, the more inherently improbable it is regarded, the more compelling the evidence is required to prove it on the balance of probabilities.
10. There is no doubt that the allegation made against the Defendant here is a serious one. Indeed, it is always a serious matter to accuse any registered medical practitioner of misconduct in a professional respect. We need to look at all the evidence and to consider and determine the disciplinary charge against him carefully.

Findings of Council

11. The Defendant admits the factual particulars of the disciplinary charge against him but it remains for us to consider and determine on the evidence whether he is guilty of misconduct in a professional respect.
12. The Defendant was fully aware that the Patient had a medical history of allergic reactions to Paracetamol. And yet, the Defendant still prescribed the Patient with Europain, which contained Paracetamol.

13. Patients are entitled to, and they often do, rely on doctors to exercise reasonable care and competence in avoiding prescription of drug to which they have a known allergy.
14. Allergic reaction to drug is not dose-dependent, and can be triggered by even a small dose. Moreover, allergic reaction to drug can be very serious and potentially life-threatening. In a patient with a reported allergy to a particular drug, the risk of having an allergic reaction after taking the same drug again would be high.
15. Prescription of Europain to the Patient, whom the Defendant well knew was allergic to Paracetamol, was inappropriate and unsafe. If the Defendant had taken adequate note of the Patient's history of allergy, he ought to have considered whether there were safer alternatives than Europain.
16. In our view, the Defendant's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find him guilty of professional misconduct as charged.

Sentencing

17. In accordance with our published policy, we shall give the Defendant credit in sentencing for admitting the factual particulars of the disciplinary charge and for his full cooperation in the preliminary investigation stage and before us today.
18. We bear in mind that the purpose of a disciplinary order is not to punish the Defendant, but to protect the public from persons who are unfit to practise medicine and to maintain public confidence in the medical profession by upholding its high standards and good reputation.
19. This was a classic case of lack of prudence. In this incident, the Defendant failed to take note of the Patient's history of allergic reactions to Paracetamol.
20. We accept that the Defendant is a compassionate and caring doctor. We also accept that the Defendant had learnt his lesson. But we need to ensure that he would not commit the same or similar misconduct in the future.
21. In this connection, we are told in mitigation that the Defendant had since the incident taken additional precautionary measures to avoid similar mishap from happening again. In addition to documenting in red the history of drug allergy on the patient's consultation card, the Defendant's clinic assistant would attach a colour tag to the patient's consultation card every time when the patient comes for consultation. The colour tag would serve as a double reminder for the Defendant and his clinic assistants before dispensing drugs to the patient. The Defendant had also arranged for his clinic assistants to attend courses on drug dispensation.

22. Taking into consideration the nature and gravity of the disciplinary charge and what we have heard and read in mitigation, we order that the Defendant's name be removed from the General Register for a period of 1 month. We further order that the removal order be suspended for 12 months.

Prof. LAU Wan-ye, Joseph, SBS
Chairman, Medical Council